IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8153 of 1995

with

SPECIAL CIVIL APPLICATION No 7335 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 to 5 NO

GUJARAT DAIRY DEVELOPMENT CORP. LTD.

Versus

PRAVINCHANDRA SHANTILAL DAVE

Appearance:

1. Special Civil Application No. 8153 of 1995
   MR KM PATEL for Petitioner No. 1
   MR TR MISHRA for Respondent No. 1
2. Special Civil Application No. 7335 of 1997
   MR KR KOSHTI for Petitioner No. 1
   MR DEEPAK V PATEL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 22/12/2004

ORAL JUDGEMENT

1. Both these petitions are challenging the same award and order of the Industrial Tribunal in Reference (IT) No.257 of 1989 whereby the Reference of the industrial dispute was partly allowed. Since these are cross-petitions and parties are the same, they are described as the "employer" and "employee" for the sake of convenience.

2. The industrial dispute between the employer and the employee with regard to pay scale and grade demanded by the employee was referred to the Industrial Tribunal in the year 1989. While the employee claimed parity with the grade and pay scale of Head Clerk, the Tribunal has, by the impugned award, granted the grade of Senior Clerk with effect from April, 1982. By elaborate discussion of the evidence led on both sides and taking note of the nature of duties and functions performed by the employee and other employees with whom the employee claimed parity, the order as above appears to have been made. No ground was made out by the learned counsel on either side to interfere with the findings of fact which are recorded and the conclusions to which the Tribunal has reached after elaborate appreciation of evidence.

3. Although the petitions are styled as petitions under Articles 226 and 227 of the Constitution, in reality, the supervisory jurisdiction of this Court is invoked and, within the limited scope of the jurisdiction, this Court cannot re-appreciate the evidence to reach a different conclusion especially when no perversity is even alleged or made out. It was sought to be urged on behalf of the employer that by now the dairy of the employer has been closed down and the employee has already retired by accepting the benefits under the voluntary retirement scheme in the year 2001. That, however, is absolutely irrelevant for deciding the petitions. Accordingly, both the petitions are rejected and Rule in each of the petitions is discharged with no order as to costs. Interim relief stands vacated.

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)